ANNUAL REPORT

2014/2015

BRITISH COLUMBIA COMMISSIONER FOR TEACHER REGULATION

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September 30, 2015

The Honourable Mike Bernier
Minister of Education
Room 310, Parliament Buildings
Victoria, BC V8W 9E2

Dear Minister Bernier:

It is my honour to present to you the 2014-2015 Annual Report for the Office of the Commissioner for Teacher Regulation. This report covers the period from July 1, 2014 to June 30, 2015.

This report has been prepared and submitted in accordance with section 5 of the *Teachers Act*.

Sincerely,

Honourable Bruce Preston
Commissioner for Teacher Regulation

British Columbia
Commissioner
for Teacher Regulation

Office of the
Commissioner

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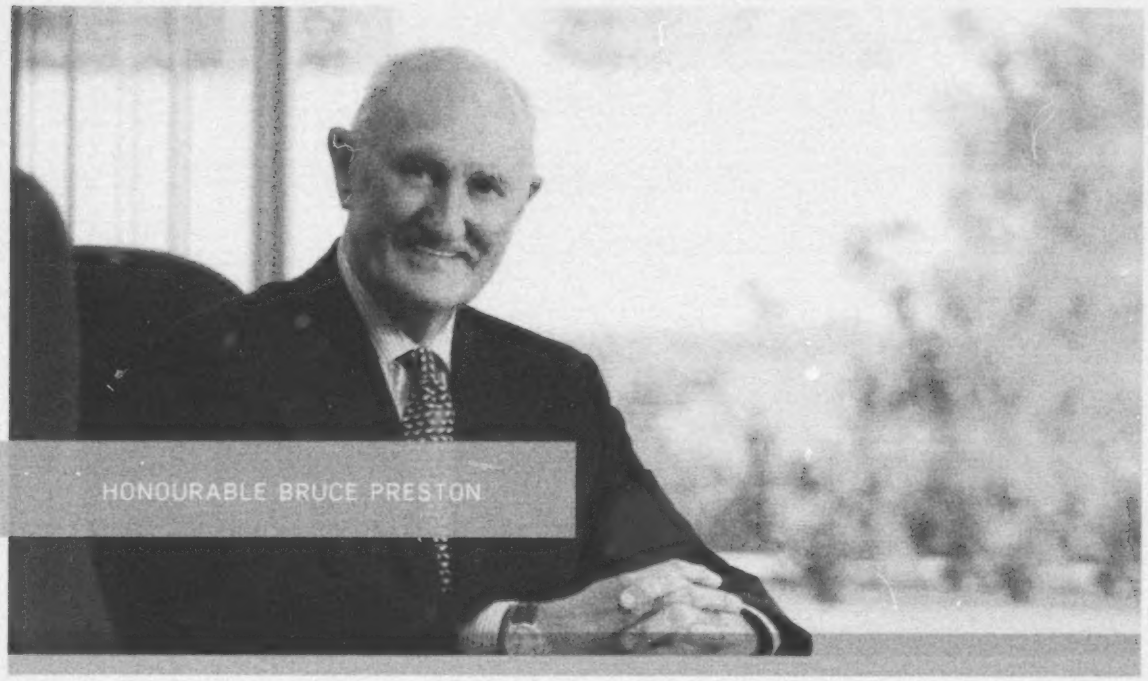


HONOURABLE BRUCE PRESTON

COMMISSIONER'S MESSAGE

The *Teachers Act* (the "*Act*") which establishes the regulatory process for both the public and independent schools in British Columbia is now slightly over three and one-half years old. The advent of the *Act* represented a substantial change in the regulation of the teaching profession. I have been the Commissioner for Teacher Regulation under the *Act* for over two and one-half years of the life of the *Act*. Looking back over the time I have been Commissioner, I am struck by the size of the task of overseeing the transition from the procedures that were in place under the former *Teaching Profession Act*. It is a larger task than I initially expected. It has been a transition of both philosophy and processes.

In both of my earlier annual reports I said that my primary concern was to reduce the delay that characterized the disciplinary process that I inherited when I was appointed in November 2012. I was then and am now convinced that inordinate delay fundamentally erodes the fairness of the adjudicative process that I am required to administer. There are two principal routes through which disciplinary and competence issues are brought to my attention: reports from public and independent schools and complaints made by members of the public. When the matters come from the schools, there has already been a disciplinary process at the school level and sometimes considerable time has passed. Complaints from members of the public often come after other efforts have been made to resolve the issue involved. The people most affected by the situations that give rise to the complaints and reports are the students concerned, their parents and the teacher whose conduct or competence is complained of. They are all entitled to a reasonably prompt resolution.

The modern professional regulatory function with respect to teachers came about in British Columbia as a result of a very serious series of sexual assaults on students perpetrated by a teacher who moved from school to school. Because there was no central repository of disciplinary information at that time his conduct was undiscovered for a prolonged period, with serious consequences. The British Columbia College of Teachers was created to provide that central repository. The College was dissolved and the functions taken over by the Ministry of Education in January 2012 and placed under the Teacher Regulation Branch and the Commissioner for Teacher Regulation.

The function of the Commissioner for Teacher Regulation is often misunderstood. It is not to solve immediate problems affecting the student and his or her parents. Those can only be resolved expeditiously and successfully at the school level. Usually, disputes at the school level are satisfactorily resolved by discussion and accommodation short of discipline. However, if the problem involves serious misconduct on the part of the teacher, it may result in discipline up to and including dismissal. In instances of serious misconduct, when the result at the school level is discipline or dismissal, it must be reported to my office. When competence concerns are raised or discipline is imposed by schools, I am required to oversee the process that determines whether the acts of the teacher will result in consequences for his or her professional record or teaching certificate. Depending on the misconduct those can range from a reprimand to cancellation of the teaching certificate. This permits a central record to be maintained of matters affecting teacher suitability.

There are approximately 70,000 holders of teaching certificates in British Columbia. The number of reports and complaints is exceptionally small considering the number of teachers. In the 2014-2015 school year there were 168 complaints and reports and 29 other instances in which I received information leading me to initiate investigations of conduct or competence. This number is in line with previous years.

The job of a professional regulator was described by the Honourable Mr. J.C. McRuer, the former Chief Justice of Ontario, as follows:

The most obvious feature of the power of a self-governing body to discipline its members is that it is clearly a judicial power within the meaning we have given to that term, i.e., it consists of the independent and impartial application of predetermined rules and standards; no element of policy should be present in the exercise of this power. It is a power whose exercise may have the most far-reaching effects upon the individual who is disciplined. The sanction imposed upon one who has been found guilty of professional misconduct may be anything from a reprimand to expulsion from the profession. Where a conviction may result in what has aptly been termed "economic death", it is vital that procedural safeguards to ensure fairness be clearly established and rigorously observed.[1]

Dealing with complaints, reports and investigations in a timely manner continues to be a challenge. Careful investigations are time-consuming tasks. I will return to the issue of delay later in this report.

[1] Ontario Royal Commission into Civil Rights McRuer Report, note 1 at 1181.

The relationship between punitive sanctions and remedial education is at the heart of regulatory practice. The principal goal of the *Act* is to protect students from harm – both the obvious forms of harm that are highlighted in the *Act*: physical, sexual and emotional, and the harm that flows from substandard education. That goal may be advanced by deterring harmful behaviour through the punitive suspension of the right to teach with all its personal and economic consequences and by requiring remedial education that will equip teachers with the tools and the desire to avoid harmful behaviour in the future. While both deterrence and training have their place in regulatory policy, it is my view that remedial education should have increasing prominence.

I am very fortunate to be supported by an exceptionally able and hard-working staff and to have received the constant support of the Minister of Education in fiscally challenging times. I hope that this report conveys the nature of the challenges ahead in the near future, the plans to meet them, and a sense of the distance covered in the past two and one-half years.

THE REGULATORY STRUCTURE

The regulatory structure, administered by the Teacher Regulation Branch of the Ministry of Education, consists of five separate and distinct bodies, each of which plays a unique role under the *Act*.

COMMISSIONER FOR TEACHER REGULATION

- Receives reports and complaints regarding teacher conduct and competence.
- Oversees all disciplinary processes for teachers working in the public and independent school systems.
- Conducts preliminary reviews of certification appeals.
- Appoints three member hearing panels to consider evidence and submissions at a discipline hearing.

DISCIPLINARY AND PROFESSIONAL CONDUCT BOARD

- Consists of nine BC Teachers' Council members appointed by the Minister.
- The Commissioner draws from this group as well as a pool of lay people with legal/adjudicative experience to serve on three-member hearing panels.

DIRECTOR OF CERTIFICATION

- Issues, suspends and cancels Certificates of Qualification and Letters of Permission.
- Maintains the Online Registry of Certificate Holders, their certificate status, and any disciplinary action, if relevant. This list is publicly accessible on the Teacher Regulation Branch website.
- Ministry of Education staff member.

BC TEACHERS' COUNCIL

- Consists of 15 elected or appointed members, and one non-voting Ministry of Education representative, for a total of 16 members.
- The Council sets certification standards for applicants, sets competence and conduct standards for applicants and certificate holders, sets teacher education program approval standards, and determines if teacher education programs meet these standards.

INDEPENDENT SCHOOL TEACHING CERTIFICATE STANDARDS COMMITTEE

- Consists of three members who have been appointed by the Minister of Education.
- The ISTCSC establishes the standards that are required to be issued an independent school teaching certificate and to maintain an independent school teaching certificate.

TEACHER REGULATION BRANCH

- Serves as the operational arm of the regulatory structure providing administrative support to the various regulatory bodies listed here.
- Administers the certification and disciplinary processes for teachers in the kindergarten to grade 12 public and independent school systems.
- Part of the Ministry of Education.

THE DISCIPLINE PROCESS

The discipline process begins when I receive a report or complaint of teacher misconduct or incompetence. The process can also be initiated if I decide that an investigation into the conduct or competence of a teacher is necessary when I become aware of a possible breach of the *Standards for the Education, Competence and Professional Conduct of Educators in British Columbia* or the *Independent School Teacher Conduct and Competence Standards* (the "*Standards*") through avenues such as media reports, a self-report from a teacher, or a notification from the Ministry of Justice.

The term "teacher," as used in this report, refers to an individual who holds a Certificate of Qualification, a Letter of Permission or an Independent School Teaching Certificate. "Teacher" includes superintendents, principals, vice-principals, directors, and classroom teachers.

[THE INTAKE PROCESS]

The *School Act* and the *Independent School Act* require superintendents, school boards or independent school principals to notify my office of a number of situations, including when a teacher is suspended, disciplined for serious misconduct or dismissed. Those reports trigger the discipline process. The process is also triggered when a member of the public makes a complaint about the holder of a teaching certificate. The reports and complaints are handled administratively by the intake officers on my staff in the Professional Conduct Unit. Their job is to deal with the school board, superintendent, principal or member of the public initiating the complaint or report to ensure that all necessary information is available to allow me to conduct a preliminary review of the report or complaint.

Intake officers are the first and most important point of contact between the public, school boards, independent school authorities and the Office of the Commissioner. They guide all individuals through the complaint and report submission process. They ensure that anyone making a report is aware of the reporting requirements under legislation and that any member of the public making a complaint appreciates the necessity of specifying as accurately as possible the nature of the complaint.

Intake officers are responsible for creating a file for each incoming matter. They seek out and assemble the documentary information required to allow me to conduct a preliminary review. This may be a time-consuming process if the documentation is extensive. They follow up with individuals making reports and complaints to ensure no miscommunication has occurred.

[PRELIMINARY REVIEW]

On a preliminary review, I review the material that accompanies the complaint or report with members of my staff. The *Act* provides that I must consider the following questions:

1. Is the matter within my jurisdiction (i.e. does the matter relate to a current or previously certified teacher)?
2. Is the matter frivolous or made in bad faith?
3. Does the matter have any reasonable prospect of resulting in an adverse finding by a hearing panel?
4. Is it in the public interest to take any further action with respect to the matter?
5. Has the matter been pursued in a timely manner?

The *Act* provides that I may decide to take no further action if any of those considerations dictate that I should not proceed further. 33% of complaints and reports were dismissed at this stage during the 2014-2015 school year.

The matters that are not dismissed at this stage may proceed to investigation if further information is required to permit the matter to be dealt with by consent resolution or hearing.

[DEFERRAL]

In some cases, the matter may be deferred to await the conclusion of another process such as the court process in criminal matters or a medical or treatment process when alcohol, drug dependency or psychiatric disorders are involved in the behaviour that gave rise to the conduct. Once the other process is complete, or there is sufficient information to allow me to carry on the discipline process, I may refer the matter to investigation, or consent resolution.

[INVESTIGATION]

The object of an investigation is to determine and record the facts of the matter – not to make recommendations with regard to a resolution. The resulting reports are commonly provided to the teacher under investigation for comment. This provides an opportunity for the teacher to point out factual errors or to provide explanation for facts contained in the report. This may trigger further investigation. At the end of the investigation process, the matter is brought back to me for further review in conference with my staff and lawyers from the Ministry of Justice assigned to assist me. In the 2014-2015 school year, 99 of the 171 investigations concluded were ended at this stage by a decision to take no further action, (58 percent). Otherwise, the matter is usually moved to the consent resolution process.

[CONSENT RESOLUTION]

The *Act* provides for a process of consent resolution as an alternative to a hearing before a panel. Most cases in which disciplinary action proceeds after a review, either before or after an investigation, are resolved by consent resolution. Very few go on to hearing before a panel. I may offer or accept a consent resolution agreement at any time after a preliminary review and before a hearing. The consent resolution process is a voluntary process. It usually begins when I provide a draft consent resolution to the teacher or his or her counsel. The draft consent resolution is drawn in accordance with the *Act* which requires that it contain:

- the terms agreed upon by both the commissioner and the teacher;
- one or more admissions of professional misconduct or incompetence related to a report, complaint or a commissioner-initiated investigation; and
- the discipline consequences (e.g. reprimand, suspension or cancellation of a certificate or a requirement to undertake remedial education).

To encourage the prompt resolution of conduct and competence matters, detailed consent resolution terms are proposed with a time limit before a citation will be issued, publicly announced, and scheduled for a hearing before a panel. However, it is still possible to conclude a matter by consent resolution during the time the matter is proceeding to hearing.

Depending on the misconduct or incompetence of the teacher, the disciplinary consequence can range from a reprimand to cancellation of the teaching certificate. A central record of disciplinary matters and consequences is maintained by the Teacher Regulation Branch.

[HEARINGS]

Reports and complaints that go unresolved following the preliminary review process, the investigative process, and the consent resolution process proceed to a citation and hearing.

Under the *Act*, I must appoint a panel to conduct a hearing. Each panel consists of two members from a pool of nine Disciplinary and Professional Conduct Board members, and one member from a pool of lay people with legal experience and/or experience participating in administrative hearings.

All hearings are open to the public unless a panel determines otherwise. The *Act* permits all or part of a hearing to be closed if a panel determines that the interests of a person affected by the proceedings or the public interest outweigh the benefits to the public of a public hearing.

After a hearing, a panel must decide if the teacher is guilty of professional misconduct or incompetence, or whether a citation should be dismissed and no further action taken. In the event that misconduct or incompetence is found, the panel is responsible for determining the consequences to be imposed as a result. Disciplinary consequences could include a reprimand, a suspension, cancellation or no reissuance of a teaching certificate, or the placement of limitations or conditions on a certificate. The panel is required to give written reasons for its decisions which are published on the Teacher Regulation Branch website unless the panel determines that doing so would cause significant hardship to a person who has been harmed by the teacher.

The reasons for judgment of the hearing panels provide guidance in other cases that permits most matters to be settled by consent.

There have been eight hearings since the *Act* came into force: 1 hearing in 2012; 4 hearings in 2013; and 3 hearings in 2014.

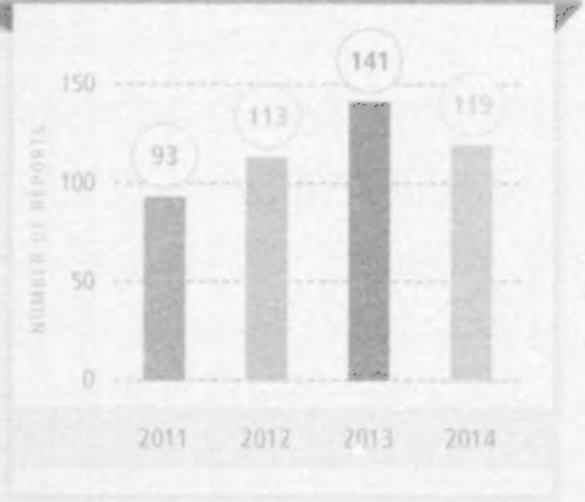
YEAR IN REVIEW

Since the transition to the *Act* in 2012, there has been an upward trend in the number of misconduct and incompetence matters received annually. That said, these statistics need to be considered in context. While there are approximately 70,000 teachers who hold a Ministry of Education teaching certificate and approximately 550,000 students enrolled in BC public schools and 80,000 students enrolled in BC independent schools, the number of disciplinary matters coming to my attention involve less than 1% of all BC teachers.

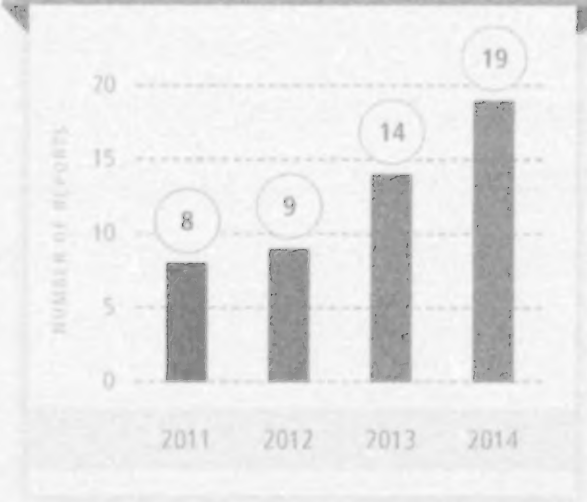
[REPORTS, COMPLAINTS AND COMMISSIONER-INITIATED INVESTIGATIONS]

To accurately reflect the trend in these statistics, they are reported on an annual, as opposed to a school-year, basis. Care should be taken in drawing conclusions on the basis of comparison between public and independent school statistics as many of the numbers are small. Complaint statistics can be heavily influenced by multiple complaints filed by a single complainant. Sometimes these complaints are without foundation and do not result in any regulatory action.

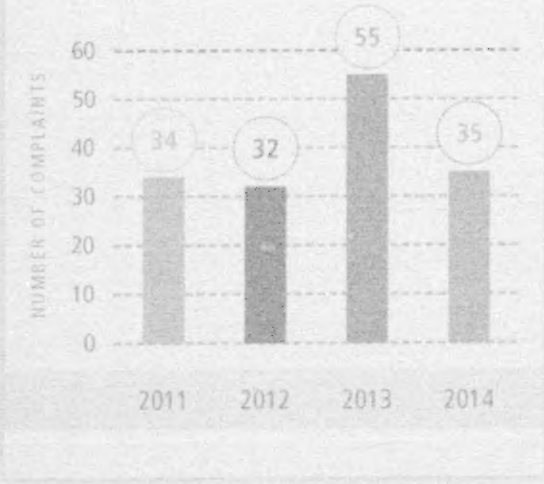
REPORTS RECEIVED REGARDING PUBLIC SCHOOL TEACHERS



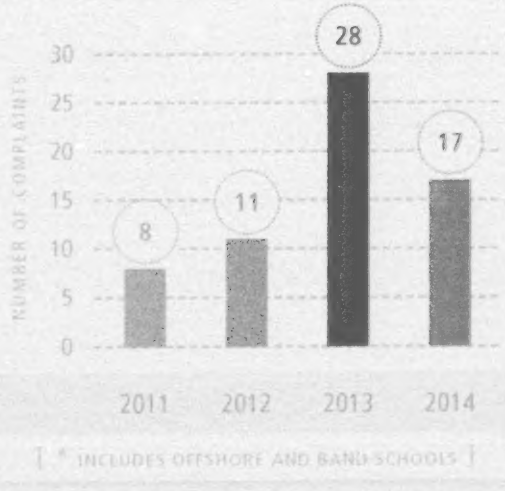
REPORTS RECEIVED REGARDING INDEPENDENT SCHOOL TEACHERS



COMPLAINTS RECEIVED REGARDING* PUBLIC SCHOOL TEACHERS



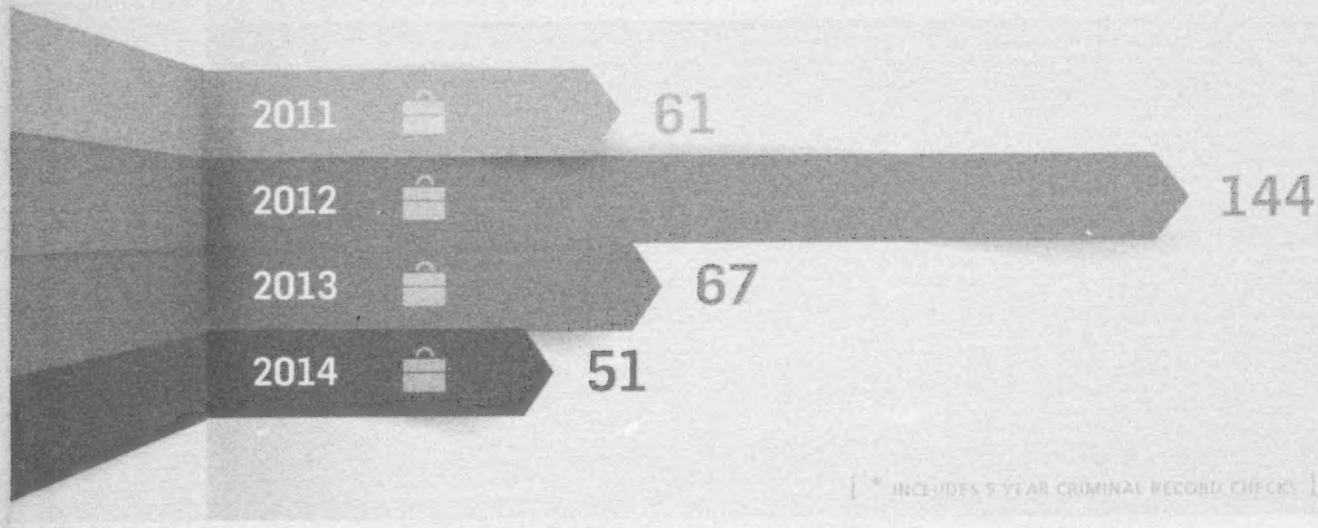
COMPLAINTS RECEIVED REGARDING INDEPENDENT SCHOOL TEACHERS



[* INCLUDES OFFSHORE AND BAND SCHOOLS]

Complaint: a written complaint, usually from a member of the public, to the Commissioner regarding the conduct or competence of a teacher who is believed to have breached the Standards.

COMMISSIONER INITIATED INVESTIGATIONS



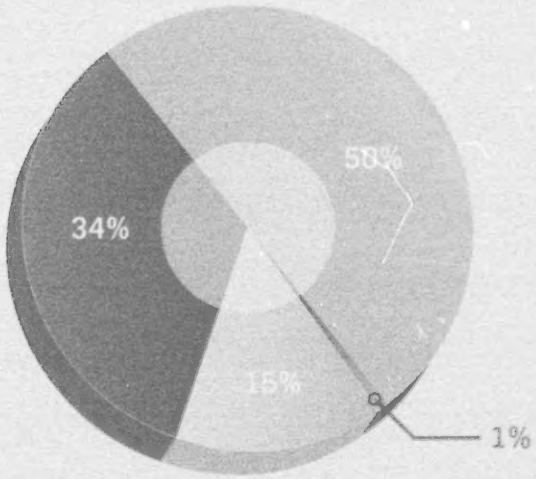
[* INCLUDES 5 YEAR CRIMINAL RECORD CHECKS]

[CASES RESOLVED BY STAGE OF PROCESS]

The following chart displays the resolutions of disciplinary matters in the 2014-2015 school year.

2014-2015 SCHOOL YEAR

- NO FURTHER ACTION – FOLLOWING INVESTIGATION OR OTHER PROCESS
- NO FURTHER ACTION – FOLLOWING PRELIMINARY REVIEW
- CONSENT RESOLUTION AGREEMENT
- HEARING



[NATURE OF COMPLAINTS AND REPORTS]

The *School Act*, the *Independent School Act*, and the *Teachers Act* deal with a broad range of misconduct. Any behaviour that harms, disadvantages or endangers students or brings the teaching profession into disrepute may be the subject of discipline.

Sexual misconduct is extremely serious and will usually result in the cancellation of the teacher's teaching certificate and the likelihood that he or she will be barred from teaching children for life. Even the accusation of sexual misconduct damages a teacher immeasurably. Sexual misbehaviour, especially toward a child over whom a teacher exercises authority, carries a stigma that exceeds most other forms of misconduct. Extreme care is exercised in dealing with complaints of this nature.

Behaviour that exposes a student to physical or emotional harm is also singled out by the *Act* for special scrutiny.

When determining whether a teacher's behaviour amounts to misconduct, the conduct is measured against the *Standards for the Education, Competence and Professional Conduct of Educators in British Columbia* or the *Independent School Teacher Conduct and Competence Standards*. These standards are established by the British Columbia Teachers' Council under the *Teachers Act*, and by Independent School Teaching Certificate Standards Committee under the *Independent School Act*.

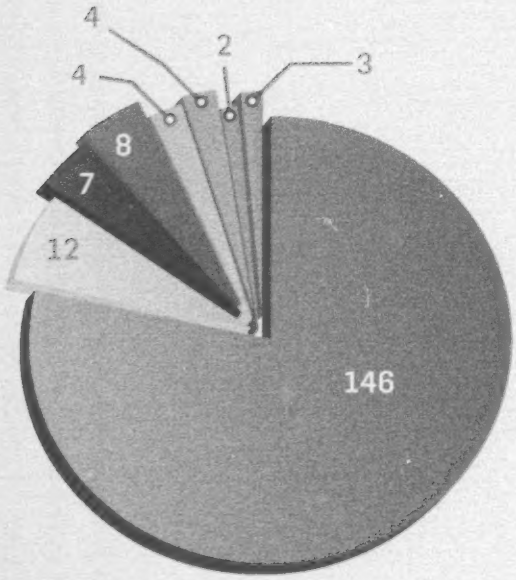
Examples of reports and complaints that I receive include: inadequate classroom management; physical, verbal or sexual misconduct; anger management issues; possession of child pornography; failure to supervise students; and off-duty misconduct.

The majority of reports and complaints fell into the category of misconduct in a professional role. The professional role category typically refers to cases in which a teacher has failed to respect the professional boundaries between teacher and student, or failed to maintain an emotionally, intellectually and physically safe learning environment. This category also includes cases related to breaches of confidentiality, fraudulent documents or inappropriate conduct on social media.

> The Commissioner ensures that concerns about the competence and conduct of teachers are addressed independently, fairly, transparently, in a timely manner, and in the public interest.

NATURE OF MISCONDUCT

[2014–2015 SCHOOL YEAR]



- INAPPROPRIATE CONDUCT *(COMPETENCY)*
- INAPPROPRIATE CONDUCT *(PROFESSIONAL ROLE)*
- INAPPROPRIATE CONDUCT *(VERBAL)*
- INAPPROPRIATE CONDUCT *(PHYSICAL)*
- INAPPROPRIATE CONDUCT *(SEXUAL)*
- CRIMINAL CHARGES OR CONVICTIONS *(OTHER)*
- CRIMINAL CHARGES OR CONVICTIONS *(PHYSICAL/NON-SEXUAL)*
- CRIMINAL CHARGES OR CONVICTIONS *(SEXUALLY RELATED)*

Examples of misconduct or incompetence allegations received by the Commissioner include but are not limited to: inadequate classroom management; physical, verbal or sexual misconduct; anger management issues; possession of child pornography; failure to supervise students; and off-duty misconduct.

The "Inappropriate Conduct (professional role)" category is a holdover from the College of Teachers categorization. We now have a sufficient body of data to permit us to re-categorize the types of misconduct included. In next year's report this category will be broken down to provide a more useful view of the specific conduct that makes up this category.

Discipline Outcomes

The *Act* outlines the type of sanctions that may be imposed on a teacher who has been found guilty, at the regulatory level, of breaching the *Standards*. The sanctions vary depending on the severity of the breach and may include:

a) a reprimand;

b) suspension of a teaching certificate for a fixed period, until certain conditions are met, or until an individual shows he/she is capable of teaching;

c) cancellation of a teaching certificate;

d) a ban on issuance of a teaching certificate for a fixed or indeterminate period of time; or

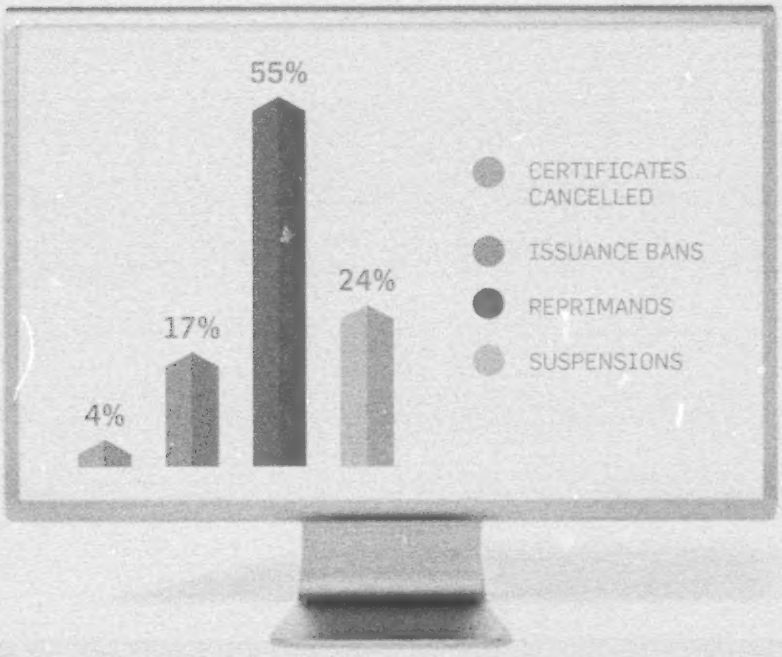
e) placement of limitations and conditions on a certificate that may accompany a reprimand or suspension.

The most commonly imposed sanction in the 2014-2015 school year was a reprimand recorded against a teacher's certification. The proportion resulting in suspension increased in the 2014-2015 school year. There was a small increase in the proportion resulting in issuance bans. These bans are imposed when the teacher no longer holds a teaching certificate at the time that the consent resolution is signed.

The least common sanction continues to be the cancellation of a teaching certificate.

DISCIPLINE SANCTIONS

[2014-2015 SCHOOL YEAR]



REDUCING DELAY IN THE DISCIPLINE PROCESS

[INTAKE]

The intake process is central to ensuring the overall disciplinary process proceeds without delay. In the past, delay in the intake process was one of the major contributing factors to overall delay. Delay in the intake process has declined significantly since the reorganization of the process in early 2013. The median delay was four months in 2012 and is now at under one month in 2015.

[INVESTIGATION]

Investigations are a central part of the discipline process. The *Act* provides me with broad powers to compel the production of evidence. I delegate those powers to investigators in the Professional Conduct Unit who conduct the investigations in individual cases on my instructions. As of 2015, the Professional Conduct Unit has a staff of 10 investigators. I maintain responsibility for the quality and timeliness of those investigations. I order the investigations after reviewing information received in the form of complaints or reports. The resulting reports prepared by the investigators provide the factual basis upon which I determine whether or not disciplinary action should be taken.

When I determine that disciplinary action is appropriate, the investigation reports provide the facts that form the basis for consent resolution agreements in which the teacher involved admits misconduct or incompetence.

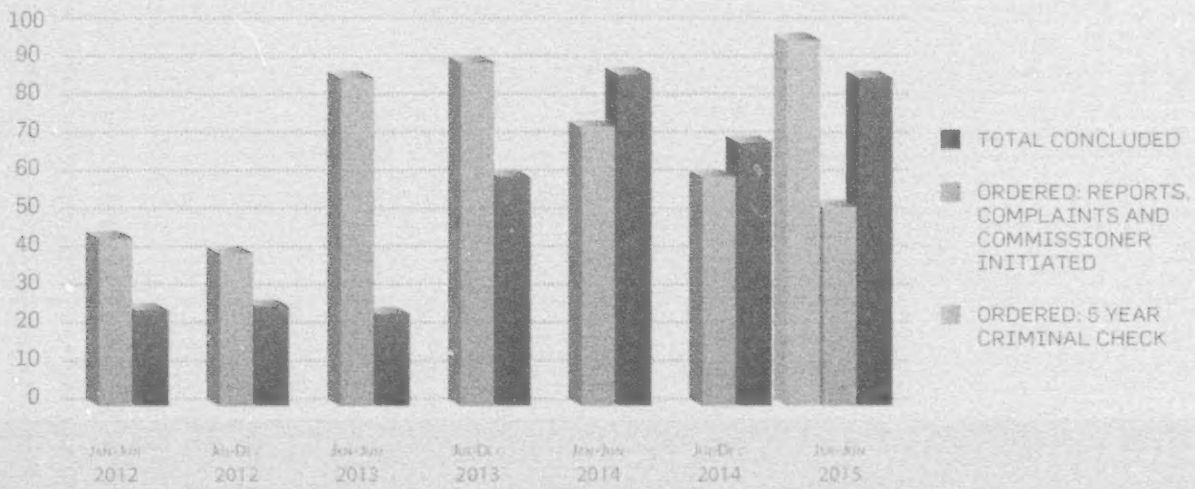
If no consent resolution agreement is reached, the investigation report will provide the basis for the evidence that is placed before a hearing panel whose job it is to determine whether the teacher is guilty of misconduct or incompetence.

Investigators do not make a determination about whether the teacher misconducted him or herself or was incompetent. Nor do investigators make recommendations concerning a finding of guilt or innocence of an allegation of misconduct or incompetence. An investigator's job is to determine the facts of a particular situation. They must do so with scrupulous care, without being influenced by their own preconceptions or the expression of views by the witnesses being interviewed. Conducting a competent investigation is an exceptionally demanding and difficult job.

[INVESTIGATIVE BACKLOG AND DELAY]

The following chart displays the statistics on investigations ordered and investigations concluded at six month intervals. It indicates the progress made in reducing the time between investigations ordered and investigations concluded. This has been accomplished by procedural changes to the manner in which investigations of both reports and complaints are handled and by an increase in the number of investigators. The recent addition of three new investigators and two new investigative assistants should reduce the delay significantly over the next school year.

INVESTIGATIONS ORDERED & INVESTIGATIONS CONCLUDED BY 6 MONTH PERIOD



In the January to June 2015 period, this chart includes investigations arising from criminal record review investigations performed by the Criminal Records Review Program (CRRP). They are shown in orange.

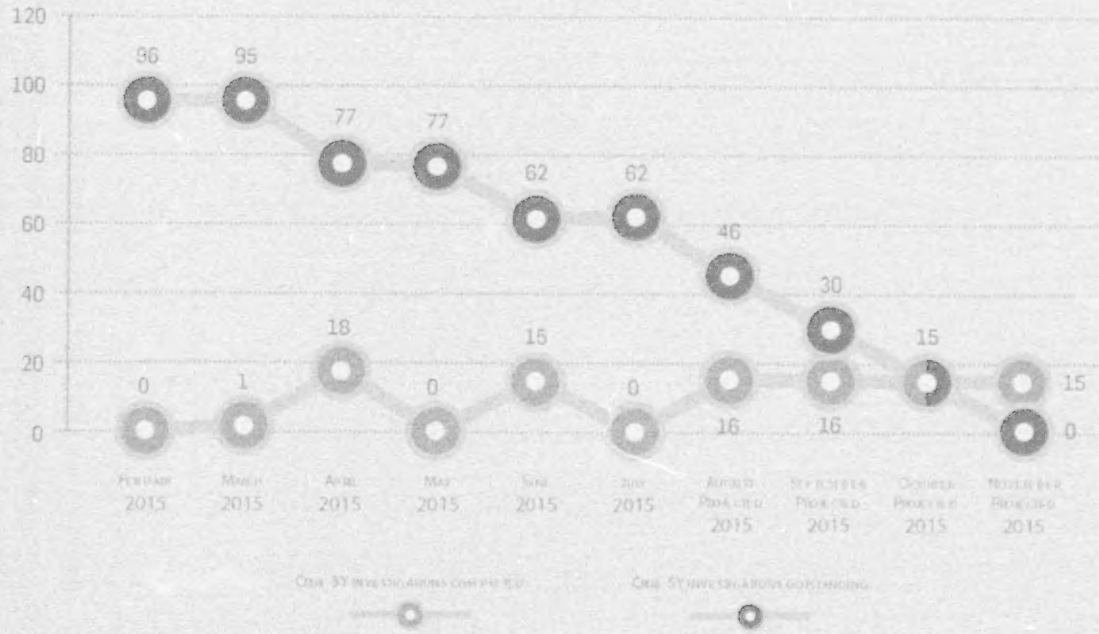
All teachers are required to submit to a criminal record check every five years. In certain cases, these criminal record checks produce information about a criminal charge or conviction that requires further investigation to determine if disciplinary action should be taken. Because of changes in the ambit of the record checks performed by the CRRP, the number of these investigations has increased in the last two years. We receive reports of these positive criminal record checks from the CRRP, but until March of 2015 we did not receive them in a form that enabled us to determine whether the information indicated an underlying problem that should be investigated. A backlog of 96 such files accumulated. They were all referred to investigation in February 2015. In March, the CRRP began providing us with the necessary information to determine which reports required investigation. Since then, we have been processing the 96 outstanding files as we receive information from CRRP. In the chart above, and in the one below, the 96 criminal record files in the backlog are treated separately.

We are resolving the CRRP files through a process involving senior staff in order to minimize the load on our investigative resources.

The following chart deals, by month, with the separate process that is being employed to deal with the CRRP files in the 96 file backlog and projects the reduction planned during the balance of the year.

RESOLUTION OF CRIMINAL RECORD CHECK INVESTIGATIONS

[2014-2015 SCHOOL YEAR]



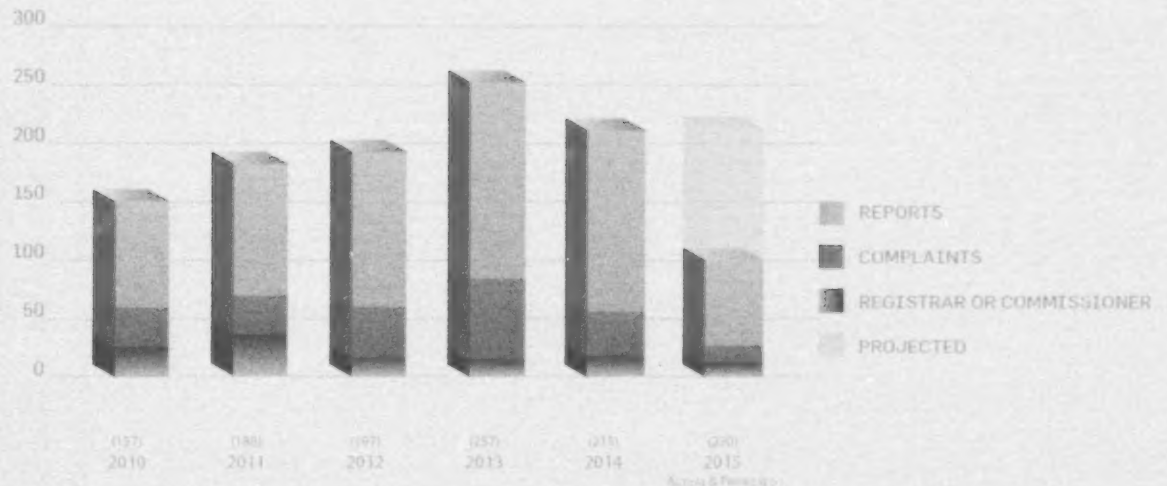
The following table shows by year the average investigative caseload and investigative backlog for the period 2010 to 2015. During that period the average caseload has been reduced from 27.33 to 19.06. This has been accomplished by process change and the addition of investigators.

Date	Outstanding Investigations	# of Investigators	Average caseload	Delay in years
June 15, 2010	82	3.0	27.33	1.95
June 15, 2011	100	5.0	20.00	1.43
June 15, 2012	112	5.0	22.40	1.60
June 15, 2013	189	7.3	25.89	1.62
June 15, 2014	192	7.0	27.43	1.71
June 15, 2015	183	9.6	19.06	1.19

During this period the annual total number of complaints, reports and Commissioner-initiated investigations has increased as is shown in the following chart.

COMPLAINTS, REPORTS AND COMMISSIONER-INITIATED INVESTIGATIONS

CALENDAR YEARS



Nine months is my estimate of the minimum delay that can be achieved in the investigation process while still maintaining an acceptable degree of efficiency. There are unavoidable delays in the investigation process caused by the time it takes to contact witnesses and obtain evidence from them, prepare investigation reports or memos, seek and obtain directions, etc. A nine-month turnaround implies that an investigator will have approximately 14 files.

My present goal is to reduce the investigation backlog to the nine-month level in 2017.

[CONSENT RESOLUTION]

The consent resolution process involves considerable back-and-forth contact with teachers and their counsel. The *Act* sets out the requirements of a consent resolution agreement including the requirement that the details of the conduct admitted by the teacher be set out in the agreement. Frequently there is disagreement over details of the wording used to capture the conduct. This may initiate further investigation to determine the exact nature of one or more of the instances of misconduct. In addition, the nature of the penalty sought by the Commissioner may be the subject of negotiation concerning such details as the dates of a suspension, the length of time that the teacher has during which to take a remedial program, or the details of a substance abuse rehabilitation program.

Delay in the consent resolution process has been reduced since we instituted the practice of drafting consent resolution agreements in full to initiate the process. This change has required the development of staff expertise and administrative resources within the Professional Conduct Unit in order to streamline the creation and flow of documentation and correspondence. We will be continuing a process review to further expedite this process.

[JUSTICE INSTITUTE COURSES]

In my last annual report I indicated that I met with the Justice Institute of British Columbia (JIBC) to discuss the development of remedial courses in three areas that particularly concern me: classroom management, conflict management and professional boundaries. I indicated that a disproportionate number of reports and complaints involved allegations that a teacher had behaved in a manner that displayed a lack of understanding of fundamental principles in these areas. On May 15, 2015 the Teacher Regulation Branch and the JIBC signed a contract to facilitate the offering of the following courses: The Mindful Educator in Managing Conflict, Reinforcing Respectful Professional Boundaries, and Creating a Positive Learning Environment. These courses will be offered during school holidays (summer and spring break) to eliminate the impact on students of teacher absence. Where appropriate, I will require attendance at these courses as a term of consent resolution agreements. Each course is three days in length and costs $697.00 – a cost to be borne by the teacher. The focus of these courses is on building skills. The goal is to offer practical courses built around scenarios that emphasize the application of basic principles to real-life problems.

The JIBC's calendar descriptions of the three courses are:

The Mindful Educator in Managing Conflict

Through self-reflection, dialogue, exercises and scenario practice, this 21-hour course will increase your awareness of how you perceive and personify your role as an educator in the K-12 sector in the face of conflict and anger. You will gain a working knowledge of Emotional Intelligence competencies as they relate to managing conflict and learn practical ways to enhance self-awareness, self-regard, self-regulation, assertiveness, stress tolerance and impulse control. With this gained insight, you will begin to construct more productive ways to address such challenges. This will increase capacity to make sound decisions, build mutually supportive relationships, and to handle stress and anger effectively. You will learn the necessary skills and approaches to help manage your own angry feelings and behaviors, and to effectively respond to anger in others. Topics such as anger triggers, self-management, defusing skills, the origins of personal expressions of anger and disengaging from angry encounters are explored.

Reinforcing Respectful Professional Boundaries

Teachers in the K-12 sector face a multitude of pressures and challenges in the modern classroom. Boundaries between the professional educator and the student can become blurred. With evolutions in social media and "student-centred" educational approaches, the potential for the blurring of professional boundaries increases. Through discussion and scenario analysis, this 3-day, face-to-face course will explore the moral and ethical gray zones that surface in professional relationships. You will define and identify the types of behaviours and situations that could threaten professional teacher conduct and stature. Finally, you will acquire assertive communication strategies to respectfully and clearly articulate professional boundaries when challenged. You will then be able to connect authentically with students while maintaining boundaries.

Creating a Positive Learning Environment

Designed for educators in the K-12 system, in this 3-day course you will deepen classroom management skills by exploring ways to respond to challenging classroom situations where the pressures are numerous, complex and potentially contentious. You will examine how to deal constructively with teaching content process and student/faculty relationship issues, heightened emotion, challenging participant behaviours, and conflict. Scenario-based simulations will provide the opportunity to practice relevant communication and intervention skills. Reflective practice will be encouraged through self-reflection and peer feedback.

One of my goals in the future is to achieve a better balance between suspensions of teaching certificates as a consequence of misconduct and remedial education. Both of these impose an economic burden on teachers. It is my view that those resources are better directed to remedial education than suspensions which have collateral disadvantages for students.

Although these courses have been developed specifically as remedial courses to permit referral of teachers in the course of the consent resolution process, they are offered as part of the general course offerings of the JIBC. They are available to the public and deal with topics of interest to most teachers.

[TEACHERS TEACHING ON CALL]

Instances of teacher misconduct arising as a result of classroom management issues are a frequent source of school district reports. Teachers Teaching on Call (TTOCs) are over-represented in these reports. The types of behaviour that typically underlie these reports are: failure to follow the lesson plans left by the teacher whose class is being covered by the TTOC; losing control of the class; and using inappropriate behaviours to manage the class (i.e. physical aggression, yelling, threats, etc.). A recent consent resolution agreement contains a catalogue of behaviour in one case that is illustrative of an extreme example of the kinds of misconduct that may take place:

The TTOC, on 4 separate days:

- *took the class outside during the last period of the day, and did not return them to the classroom so that they could be safely dismissed from school. Instead parents had to locate their children in the playground during a busy time when the rest of the school population was being dismissed and many parents were milling in the schoolyard.*
- *failed to follow the detailed day plan left by the regular teacher, although he had left her a note that her plan had been followed;*
- *provided minimal instruction to students, leaving them confused about what they were supposed to do;*
- *[m]uch of the day was "free time," during which students did what they wanted;*
- *[t]he classroom environment was chaotic, with children coming and going freely, throwing paper airplanes, talking loudly and running around;…*
- *[c]hildren were left frustrated by the chaotic atmosphere, one girl so much so that she was found in the hallway in tears;*

The employment realities for new teachers are that they are likely to be employed as TTOCs for a number of years before obtaining full-time classroom employment. At present in British Columbia there is an oversupply of teachers. New teachers typically spend the early years of their teaching employment as TTOCs before obtaining full time teaching positions. During this period they face the most challenging classroom management situations that they are likely to face during their career as a teacher. Something in the order of 3% of a student's classroom time will be spent with a TTOC. It is critically important that this not be "lost time."

The better prepared that TTOCs are to confront the classroom management challenges that will face them, the less likely they are to face sanctions at the school district level and at the regulatory level.

[FRAUDULENT SICK LEAVE]

Claims of sick leave to permit attendance at sports events, holidays, or to attend social events appear to be less common now than they were at the time the *Act* came into force. I have been subjected to frequent criticism for insisting in most cases that instances of fraudulent claims reported by school districts be the subject of published consent resolution agreements or citations rather than decisions not to take any action. The policy of insisting on public resolution of those claims is based on my view of the seriousness of that behaviour.

Students are entitled to uninterrupted guidance and instruction by their classroom teacher. While every effort should be made to ensure that instruction by TTOCs is of a high quality, the gold standard is still instruction by the classroom teacher. Obviously, there will be times when students' regular teachers are unable to fulfil their duties because of illness. However, improperly expanding the times during which the classroom teacher is absent does have an impact on the quality of student learning.

I continue to be satisfied that fraudulent claims of sick benefits are a serious matter and should be publicly sanctioned in most cases.

STRATEGIC GOALS FOR 2015-2016

1. Continue to reduce delay in all processes with a particular emphasis on investigative delay.
2. Cooperate with government to rationalize the funding structure for the Teacher Regulation Branch in order to promote both accountability and administrative efficiency.
3. Increase my focus on communicating the role of a professional regulator and the structure presently in place for regulating teacher conduct and competence. I want to communicate to parents in particular.
4. Continue to work with B.C. School Sports with respect to teacher-coaches and parent-coaches in school sports.
5. Continue to cooperate with the Justice Institute of British Columbia to refine and further develop remedial program resources including resources on the topic of cultural and gender sensitivity.

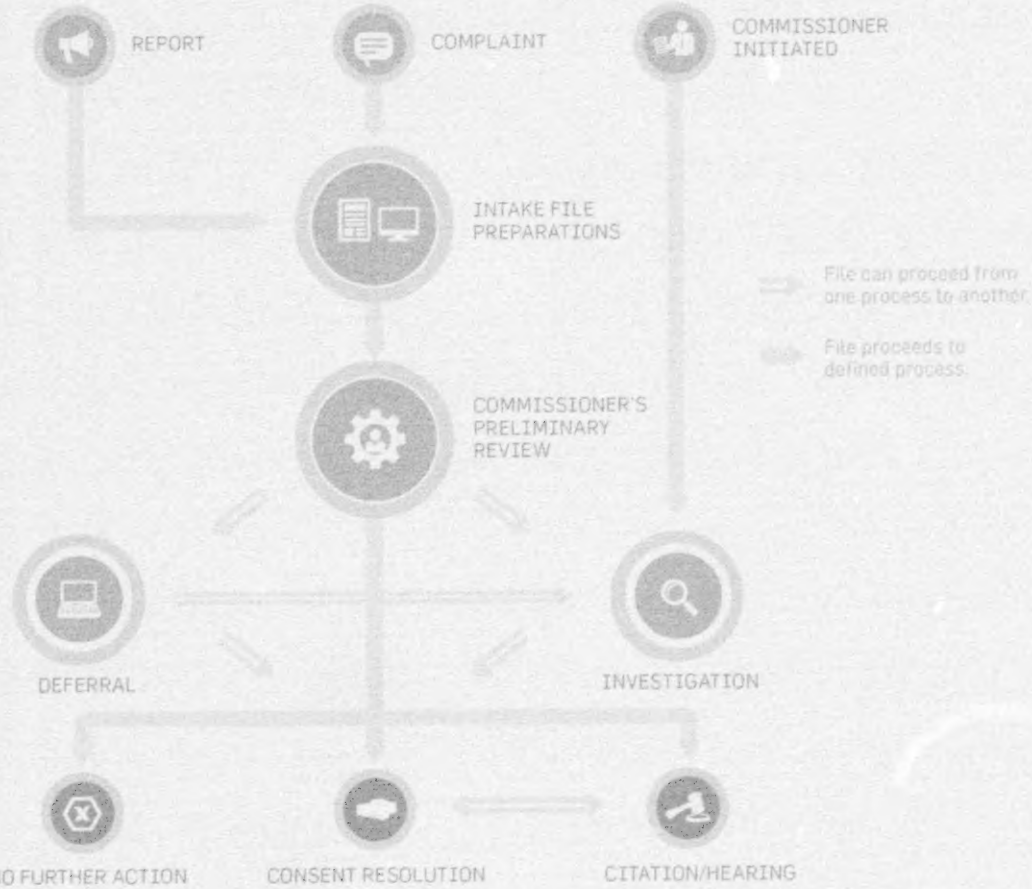
APPENDICES

[A. OVERVIEW OF THE DISCIPLINARY PROCESS]

The Commissioner, upon receiving a report or complaint file prepared by an intake officer, will conduct a preliminary review of the file and determine which, if any, disciplinary process is appropriate to address a complaint or report. Under the *Act*, the Commissioner has the following options available:

1. Take no further action (NFA);
2. Deferral;
3. Initiate an investigation;
4. Make or accept a proposal for a consent resolution agreement; or
5. Issue a citation, which leads to a hearing.

A file may proceed through the disciplinary process a number of different ways depending on the specifics of the case. While this visual provides an accurate depiction of the disciplinary process in place currently, this could change in the future as the Commissioner implements process changes to reduce and/or eliminate delay in administrative and adjudicative processes.



[B. DUTY TO REPORT]

Under the *Act*, the *School Act*, the *Independent School Act*, and the *Criminal Records Review Act*, teachers and employers are required to report or self-report any instance of misconduct or incompetence of a teacher even if discipline at the employment level has already been imposed. The duty to report to the regulatory level protects the safety of children within the public and independent school systems and ensures that teachers who fail to meet the Standards for competence and conduct will be held accountable.

Teachers' duty to report

Under section 38 of the *Act*, a teacher must promptly provide to the Commissioner a written and signed report if he/she has reason to believe that another teacher has engaged in conduct that involves any of the following:

- Physical harm to a student
- Sexual abuse or sexual exploitation of a student
- Significant emotional harm to a student

Self-reports of relevant or specified offences

Under section 17.9 of the *Criminal Records Review Act*, teachers are required to self-report promptly to the Director of Certification if they are criminally charged or convicted in relation to a "relevant offence or specified offence." These are offences listed in Schedule 1 or Schedule 3 of the *Criminal Records Review Act*.

Employers

Under section 16 of the *School Act* and section 7 of the *Independent School Act*, boards of education and independent school principals or authorities have a duty to report the following to the Commissioner:

- A suspension or dismissal
- A resignation, if it is in the public interest to report the matter
- Discipline for misconduct involving:
  - Physical harm to a student or minor,
  - Sexual abuse or sexual exploitation of a student or minor, or
  - Significant emotional harm to a student or minor
- Conduct or competence considered to be in breach of the certification standards, if it is in the public interest to do so.

[C. RESOURCES]

Resources for the public and education stakeholders

Applicable legislation

Teachers Act
Commissioner's Regulation
Commissioner's Rules

Standards for Educators in BC

Standards for the Education, Competence and Professional Conduct of Educators in BC
Independent School Teacher Conduct and Competence Standards
Understanding Your Duty to Report Brochure

Complaints

Making a Complaint Brochure
Complaint Form

Contact Information

Commissioner for Teacher Regulation – to make comments
Email: CommissionerTeacherRegulation@gov.bc.ca
Intake area – to ask questions about making a complaint
Email: trb.intake@gov.bc.ca

To obtain a copy of these resources or to get more information on the work of the Commissioner visit bcteacherregulation.ca.

ANNUAL REPORT

2014/2015

COMMISSIONER FOR TEACHER REGULATION

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